Comments of the
Illinois Competitive Energy Association
To the Illinois Power Agency's
Draft Power Procurement Plan dated August 16, 2010

The Illinois Competitive Energy Association ("ICEA") is an Illinois not-for-profit corporation established as an Illinois-based trade association that represents the interests of competitive energy suppliers, including licensed alternative retail electric suppliers ("ARESs"), and others interested in preserving and enhancing opportunities for customer choice and competition in the electric and natural gas industries in Illinois. ICEA's members include some of the largest and most active ARES operating in Illinois, such as Ameren Energy Marketing, Champion Energy, LLC, Constellation NewEnergy Inc., Direct Energy Services, LLC, Exelon Energy Company, Integrys Energy Services, Inc., MC Squared Energy Services, LLC, and Nordic Energy Services, LLC. These companies serve commercial, industrial, and public sector customers, ranging from Main Street to the Fortune 500, including the manufacturing industry; retail businesses; the State of Illinois and local units of governments; cultural, sporting, and educational institutions; as well as hospitals, hotels, and restaurants. ARES provide more than half of the electricity consumed in Illinois. Over 74% of commercial and industrial, governmental, and other non-residential load is served by ARES. The state's largest C&I customers procure 97% of their electricity from ARES.

ICEA appreciates this opportunity to comment on the Illinois Power Agency ("IPA") Draft Power Procurement Plan dated August 16, 2010 ("Draft Plan"). ICEA's interest in the IPA Draft Plan is twofold. First, the structure of the competitive wholesale procurement of power and energy impacts the ability of eligible retail customers to take competitive retail electric service from ICEA members companies. Second, the procurement of renewable resources under the plan impacts retail customers currently served by ICEA member companies or those that they may serve in the future.

The cost to serve ARES customers is directly impacted by the IPA's Draft Plan because the outcome of the procurement of renewable resources impacts the calculation of the mandatory Alternative Compliance Payments (ACP) that ARES must pay to the IPA under the plan and the Illinois Power Agency Act ("IPA Act"). Accordingly, ICEA's comments are focused on the impact of the plan on the ACP and the default rates for eligible retail customers.

Power and Energy Procurement

As recognized by the Draft Plan, the implementation of purchase of receivables programs for residential and smaller commercial customers in the ComEd and Ameren service territories, it is anticipated that an even greater amount of electric load will shift to ARES supply. If that is in fact the IPA's belief, the IPA should consider limiting the use of laddered contracts for future delivery years. The Draft Plan uses switching rates from the Illinois retail natural gas market as a baseline for its discussion of likely switching in the residential and small commercial customer segment. However, states such as Pennsylvania have seen much higher levels of retail electric customer switching than what has been reached on the retail natural gas market in Illinois. Procurement out two to three years under a laddered contract structure could result in oversupply in those out years if the level of switching increases.

Renewable Energy Procurement

ICEA supports the Draft Plan's recognition that the most cost effective manner to meet the renewable portfolio standard for both utilities for the plan year is through one year REC acquisitions, not through long term energy procurement contracts.[1] As was outlined in ICEA's comments and briefs in last year's IPA Plan Docket (No. 09-0373) ICEA contends that it is ill-advised for the IPA Procurement Plan to include the long-term procurement of renewable energy products. Based upon the record in that case and the information in this report, ICEA's position is that long term renewable energy contracts are not in the best interest of Illinois consumers. Rather, such contracts are in conflict with Section 1-5A of the IPA Act that instructs the IPA to "develop electricity procurement plans to ensure adequate, reliable, affordable, efficient and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability."

ICEA would also comment that there are two aspects of the Renewable Energy Procurement sections of the Draft Plan that need further clarification in the final plan.

First, the Plan should clarify if the preferences of the IPA Act apply for the 2011 plan renewable procurement. The Draft Plan quotes the requirement contained in the statute, but does not clarify if that requirement will apply for the 2011 Procurement.[2] It is ICEA's belief and understanding that the preference expires for anything delivered after June 1, 2011. Obviously, the preference has a material impact on the REC procurement price and the resulting ACP born by ARES and ARES served customers.

ICEA proposes the following specific language change (addition in boldface) to the plan:

[1] For Ameren see page 36 of the Draft Plan – "The IPA proposes that Ameren shall meet the renewable energy resource portfolio standard for the Plan year through the acquisition of qualifying renewable energy credits ("RECs") as defined in Section 1-10 of the IPA Act. The acquisition of RES for the period meets the requirements of the IPA Act and are preferable to the direct acquisition of energy from qualifying renewable resources at this time."
For ComEd see page 52 of the Draft Report – "ComEd shall meet the renewable energy resource portfolio standard for the Plan year through the acquisition of the qualifying renewable energy credits ("RECs") as define in Sections 1-10 of the IPA Act. The acquisition of REC's for this period meets the requirements of the IPA Act and are preferable to the direct acquisition of energy from qualifying renewable resources at this time."
[2] See Draft Plan page 38 (Ameren) and page 54 (ComEd) – "Preferences. Section 1-75 (c) (3) of the IPA Act requires that until June 1, 2011 cost effective renewable energy resources be procured first from facilities in the State of Illinois, then from facilities located in states adjacent to Illinois, then from facilities located elsewhere."

> Draft Plan page 38 (Ameren) and page 54 (ComEd) – "Preferences. Section 1-75 (c) (3) of the IPA Act requires that until June 1, 2011 cost effective renewable energy resources be procured first from facilities in the State of Illinois, then from facilities located in states adjacent to Illinois, then from facilities located elsewhere." **Therefore, the preference will not apply for renewable energy resources procured under this plan.**

Second, the Plan should address the deployment and impact and potential interplay of the recently paid 2010 ARES ACP payments to the IPA Renewable Energy Resources Fund (" IPA ACP Fund") upon the 2011 utility renewables procurement. While the IPA ACP Fund is not directly tied to the renewables procurement for the utilities, the IPA's plans for expenditure of those funds should be considered in developing the procurement strategy for the utilities as it could impact the total supply bid into the utility procurement and the overall portfolio strategy. More importantly, the Act requires that the IPA ACP Fund Procurement be held "in conjunction with a procurement event for the electric utilities."[3] This year is the first such year that requirement is effective due to the ACP payments made on September 1, 2010 by ARES. The amount of these payments is significant[4] and as required by the statute their associated procurement plan "in conjunction with a procurement event for electric utilities" should be publically outlined in the IPA Plan.

Capacity Resources and Demand Response

For ComEd, the Draft Plan recommends holding workshops in the fall of 2010 and "conducting a procurement event for Demand Response in lieu of Capacity Resources ("DRCR") event during the spring 2011 period." This is a departure from past practice where "the Commission and the IPA have accepted the RPM process satisfied the requirements of the Act with regard to securing demand response in lieu of capacity largely because the RPM process was considered to be market-wide and capable of capturing all cost-effective demand response assets. However, the IPA believes that the cancellation of the Second Incremental Auction indicates that the RPM processes may not be capturing all the potential or available demand response resources."[5]

ICEA disagrees with this conclusion and does not support a separate IPA Demand Response procurement. PJM already allows demand response resources to offer into the RPM auction process on the same basis as generation resources. Any additional demand response capacity procured by the IPA would not diminish the amount of capacity ComEd has already and is obligated to acquire through the PJM RPM process. An IPA procurement of DRCR would therefore increase overall capacity costs in two ways. First, it would create additional costs for

[3] See Public Act 96-0150: "The Agency shall procure renewable energy resources at least once each year in conjunction with a procurement event for electric utilities …and shall, whenever possible, enter into long term contracts."

[4] While the total payment amount is not yet public, ICEA estimates that the September 1, 2010 ACP payments were in the tens of millions of dollars.

[5] See Draft Plan page 52.

utility served customers that are buying what is little more than excess and unneeded capacity. Second, holding an IPA procurement for DRCR might encourage some demand response resources to withhold their capacity from the RPM auction. If demand resource capacity foregoes the RPM auction, it would reduce capacity supply and likely result in increased capacity costs for all customers in the ComEd territory. As such, capacity costs for all customers – both utility and ARES served - are more effectively minimized by incentivizing all demand response resources to offer into the RPM auctions on a level footing with generation.